

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

LEE D. WEST and LYNN M. WEST,)	
Plaintiffs,)	
)	
v.)	No. 08 CV 2154
)	
COPIAGUE FUNDING CORPORATION, et al.,)	Honorable Robert W. Gettleman
Defendants.)	

**DEFENDANT COPIAGUE FUNDING CORPORATION'S
MOTION TO DISMISS PURSUANT TO RULES 12(b)(1) AND 12(b)(6)
OF THE FEDERAL RULES OF CIVIL PROCEDURE**

Defendant, Copiague Funding Corporation, by its counsel, John P. Duggan, Duggan Law Offices, respectfully moves this Court for an order dismissing Plaintiffs' Complaint pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, and in support of its motion, Copiague states as follows:

1. The TILA action for damages must be brought within one year of the alleged violation, 28 U.S.C. §1640(a). The date of the violation in the context of the mortgage transaction is the date that the transaction is closed.
2. Plaintiffs' loan transaction closed more than one year prior to the filing of this action, on September 15, 2006.
3. Homecomings Financial accepted Plaintiffs' claim for rescission (please see Defendant's Homecomings Financial, et al. Motion to Dismiss). Accordingly, the TILA claim is barred by statute.
4. No damages or relief in the Complaint is sought or articulated against Copiague Funding Corporation.
5. Plaintiffs' exhibits are largely illegible and unreadable and Copiague Funding

Corporation cannot answer or evaluate them.

WHEREFORE, Defendant, Copiague Funding Corporation, respectfully request this court to enter an order dismissing Plaintiffs' Complaint with prejudice pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, and awarding such further relief to Copiague Funding Corporation as this court deems just and appropriate.

Dated: June 20, 2008

COPIAGUE FUNDING CORPORATION

By: /s/ John P. Duggan
one of its attorneys

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